

Message Text

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ORIGIN CPR-02

INFO OCT-01 EUR-12 IO-13 ISO-00 L-03 H-01 SS-15 NSC-05
CIAE-00 DODE-00 INR-10 NSAE-00 PA-01 ICA-11 SP-02
CA-01 SY-05 HA-05 SCS-06 JUSE-00 /093 R

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FM SECSTATE WASHDC
TO AMEMBASSY MOSCOW
INFO USMISSION USUN NEW YORK
AMCONSUL LENINGRAD

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E.O. 11652: N/A

TAGS: PDIP, UR, US, ASEC

SUBJECT: IZVESTIYA CRITICIZES PENDING US IMMUNITIES LEGIS-
LATION

REF: (A) MOSCOW 11446; (B) USUN 640; (C) STATE 53518

1. SENATE FOREIGN RELATIONS COMMITTEE HELD HEARING MAY 24
ON FIVE BILLS PENDING ON DIPLOMATIC IMMUNITY. DEPARTMENT'S
PRINCIPAL WITNESS STATED PREFERENCE FOR H.R. 7819, PLUS
PROVISIONS FOR DIRECT LEGAL ACTION AGAINST INSURERS OF
DIPLOMATIC VEHICLES AS FOUND IN S.1257 AND H.R. 7679. NO
FURTHER SFRC HEARING IS PLANNED.

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2. AUTHORITY FOR THE PRESIDENT TO EXTEND EITHER MORE OR
LESS FAVORABLE TREATMENT TO MEMBERS OF PARTICULAR MISSIONS
ON RECIPROCAL BASIS AS CONTAINED IN H.R. 7819, SECTION 4,
REMAINS INTEGRAL PART OF DRAFT LEGISLATION. WE ALSO EXPECT
TO SEE IT INCLUDED IN FINAL VERSION.

3. SINCE, NOTWITHSTANDING DEPARTMENT'S 53518, SOVIETS CON-

TINUE TO EXPRESS CONCERN OVER SECTION 5 OF H.R. 7819, WHICH THEY INTERPRET AS REQUIRING STAFF OF FOREIGN MISSIONS "TO PROVE IN COURT THEIR RIGHT TO IMMUNITY IN CASE OF CRIMINAL OR CIVIL PROCEEDINGS AGAINST THEM," WE OFFER FOLLOWING CLARIFICATION.

4. IT SHOULD BE UNDERSTOOD THAT "MEMBERS OF THE MISSION", AS DEFINED IN VIENNA CONVENTION, AND MEMBERS OF THEIR FAMILIES WILL, IN VARYING DEGREES DEPENDING ON THEIR CATEGORY, BECOME SUBJECT TO CIVIL ACTIONS OR ADMINISTRATIVE PROCEEDINGS AS RESULT OF REPEAL OF 1790 STATUTE, WITH ITS UNLIMITED IMMUNITY PROVISIONS, AND ADOPTION OF CONVENTION AS BASIC LAW ON IMMUNITY. IT IS ONLY TO THIS AREA OF ACTIONS OR PROCEEDINGS, AND NOT TO CRIMINAL ACTIONS, THAT SECTION 5 OF DRAFT BILL APPLIES. USG WILL CONTINUE TO RESPECT ABSOLUTE IMMUNITY FROM ARREST OR CRIMINAL PROSECUTION WHICH CONVENTION EXTENDS TO DIPLOMATS AND MEMBERS OF THEIR ADMINISTRATIVE AND TECHNICAL STAFF AS WELL AS MEMBERS OF THEIR FAMILIES AND WE FORESEE NO CHANGE IN PRESENT PROCEDURES FOR ENSURING THAT LAW ENFORCEMENT AUTHORITIES AT ALL LEVELS LIKEWISE RESPECT IT UPON DEPARTMENT'S VERIFICATION OF INDIVIDUAL'S STATUS.

5. NEVERTHELESS, DEPARTMENT IS SENSITIVE TO CONCERNS VOICED BY SOVIETS AND OTHER GOVERNMENTS OVER REQUIREMENT IN SECTION 5 THAT A MOTION BE FILED OR WRITTEN APPLICATION MADE IN ORDER TO SECURE DISMISSAL OF A CIVIL ACTION OR LIMITED OFFICIAL USE

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ADMINISTRATIVE PROCEEDING AGAINST AN INDIVIDUAL ON IMMUNITY GROUNDS. IN RECOGNITION OF THESE LEGITIMATE CONCERNS DEPARTMENT, WITH JUSTICE DEPARTMENT CONCURRENCE, LAST LEEK PROPOSED TO FOREIGN RELATIONS COMMITTEE AMENDMENT OF SECTION 5 WHICH WOULD PERMIT DISMISSAL VIA A "MOTION OR SUGGESTION" TO BE FILED ON BEHALF OF THE INDIVIDUAL OR AS "OTHERWISE PERMITTED BY LAW OR APPLICABLE RULES OF PRO-

CEDURE". THIS WOULD CREATE POSSIBILITY FOR DEPARTMENT TO MAKE THE SUGGESTION OF IMMUNITY TO THE COURT. ADOPTION OF THIS PROPOSAL SHOULD GREATLY MITIGATE IF NOT OVERCOME OBJECTION OF SOME GOVERNMENTS TO PRESENT PROVISION IN HOUSE DRAFT.

6. DEPARTMENT HOPES MARKUP WILL OCCUR FIRST HALF JUNE. PROSPECTS FOR PASSAGE LEGISLATION THIS SESSION APPEAR REASONABLY GOOD. VANCE

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Message Attributes

Automatic Decaptioning: X
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
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ISecure: 1
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